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May 20, 2008

Via Electronic Mail Only

The Honorable Rosemary Rodriguez, Chair
U.S. Election Assistance Commission
1225 New York Avenue, Suite 1100
Washington, DC 20005

Dear Commissioner Rodriguez and members of the Commission:

Thank you for the opportunity to comment on whether the maintenance of effort (MOE) requirement in the Help America Vote Act requires states to include local government expenditures when determining the state's baseline MOE. I understand that the U.S. Election Assistance Commission will be considering this issue at its May 22nd meeting, and I urge the Commissioners to support Commissioner Hunter's proposal for the following reasons.

1. The term "State" is used throughout the Help America Vote Act and refers to the State government, not State and local governments. The plain language of the Act suggests that, when Congress intended to include local governments, it did. See § 254(a)(8) ("... State to determine its success and the success of the units of *local government* in the State in carrying out the plan") and § 401 ("The Attorney General may bring civil action against any State *or jurisdiction* . . ."). (Emphasis added.)

2. EAC Advisory 07-003-A is dated September 6, 2007, more than **four years after** the State of Maryland submitted its initial State Plan with a MOE calculated using only State funds and one year after the State was audited by the Inspector General. Enforcing EAC Advisory 07-003-A against states now would require local governments to identify the amount of funds spent eight years ago. This is an unrealistic and burdensome demand to place on local governments now.

Thank you for the opportunity to comment on this important issue, and I urge your support of Commissioner Hunter's proposal. If you have any questions, please do not hesitate to contact me at 410-269-2840.

Sincerely,

A handwritten signature in cursive script that reads "Linda H. Lamone".

Linda H. Lamone
State Administrator

LHL/nbt